

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MICHAEL ANTHONY MCINTOSH,

Petitioner,

v.

**CIVIL ACTION NO.: 3:20-CV-10
(GROH)**

WARDEN PAUL ADAMS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation (“R&R”) filed by United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 36] on May 12, 2021. Therein, Magistrate Judge Trumble recommends that the Respondent’s motion to dismiss or for summary judgment [ECF No. 24] be granted, and the Petitioner’s § 2241 petition [ECF No. 1] be denied and dismissed without prejudice. ECF No. 36 at 12.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of a petitioner’s right to appeal this Court’s Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir.

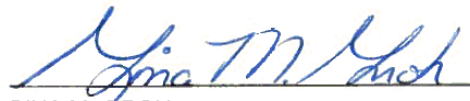
1984). The Fourth Circuit has long held, “[a]bsent objection, we do not believe that any explanation need be given for adopting [an R&R].” Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983) (finding that without an objection, no explanation whatsoever is required of the district court when adopting an R&R).

The Petitioner’s objections to Magistrate Judge Trumble’s R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Petitioner by certified mail on May 12, 2021. ECF No. 36. The Petitioner accepted service of the R&R on May 17, 2021. ECF No. 37. To date, no objections have been filed. Accordingly, this Court reviews the R&R for clear error.

Upon careful review and thoughtful consideration, the Court finds that Magistrate Judge Trumble’s R&R [ECF No. 36] should be, and is hereby, **ADOPTED** for the reasons more fully stated therein. Accordingly, the Respondent’s Motion to Dismiss or in the Alternative, for Summary Judgment [ECF No. 24] is **GRANTED**, and the Petitioner’s § 2241 Petition [ECF No. 1] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**. The Petitioner’s Motion to Appoint Counsel [ECF No. 38] is **TERMINATED** as **MOOT**.

This Court **ORDERS** that this matter be **STRICKEN** from the Court’s active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the pro se Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: June 11, 2021


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE